

## **TITLE 39. HEALTH AND SAFETY**

### **CHAPTER 86. IDAHO ELEVATOR SAFETY CODE ACT**

#### **§ 39-8601. Short title**

This chapter shall be known and may be cited as the "Elevator Safety Code Act."

#### **§ 39-8602. Legislative findings and intent**

(1) The purpose of this chapter is to provide for safety of life and limb and to ensure that the safe design, mechanical and electrical operation, erection, installation, alteration, maintenance, inspection and repair of elevators, escalators, moving walks, platform lifts, material lifts, and dumbwaiters, and all such operation, erection, installation, alteration, maintenance, inspection and repair subject to the provisions of this chapter shall be reasonably safe to persons and property and in conformity with the provisions of this chapter. The use of unsafe and defective lifting devices imposes a substantial probability of serious and preventable injury to employees and the public exposed to unsafe conditions. The prevention of these injuries and the protection of employees and the public from unsafe conditions is in the best interest of the people of this state. Personnel performing work covered by this chapter must, by documented training or experience or both, be familiar with the operation and safety functions of the components and equipment and be licensed in accordance with this chapter. Training and experience shall include, but are not limited to, recognizing the safety hazards and performing the procedures to which they are assigned in conformance with the requirements of this chapter. This chapter establishes the minimum acceptable standards for personnel performing all inspections required in this chapter.

(2) This chapter is not intended to prevent the use of systems, methods or devices of equivalent or superior quality, strength, fire resistance, code effectiveness, durability and safety to those required by this chapter, provided that there is technical documentation to demonstrate the equivalency of the system, method or device, as prescribed in this chapter and the rules adopted under this chapter.

#### **§ 39-8603. Definitions**

As used in this chapter, the terms defined in this section shall have the following meanings unless the context clearly indicates another meaning:

(1) "Administrator" means the administrator of the division of building safety for the state of Idaho.

(2) "ANSI" means the American national standards institute.

(3) "ASME" means the American society of mechanical engineers.

(4) "Conveyance" includes elevators, escalators, moving walks, platform lifts, material lifts, and dumbwaiters.

(5) "Division" means the Idaho division of building safety.

(6) "Dumbwaiter" means a hoisting and lowering mechanism equipped with a car of limited size that is used exclusively for carrying materials and that moves in guide rails and serves two (2) or more landings.

(7) "Elevator" means a hoisting or lowering machine equipped with a car or platform that moves in guides and services two (2) or more floors or landings of a building or structure.

(8) "Escalator" means a power-driven, inclined, continuous stairway used for raising and lowering passengers.

(9) "Installation" means a complete conveyance including any hoistway, hoistway enclosures and related construction, and all machinery and equipment for its operation.

(a) "Existing installation" means an installation that has been completed or upon which construction was commenced prior to July 1, 2004.

(b) "New installation" means any installation not classified as an existing installation by definition, or an existing conveyance moved to a new location subsequent to July 1, 2004.

(10) "Maintenance" means a process of routine examination, lubrication, cleaning, adjustment, and replacement of parts for the performance in accordance with applicable code requirements.

(11) "Major alteration" means any change to equipment or other maintenance, repair or replacement where work is defined by any applicable code requirement.

(12) "Material lift" means a hoisting and lowering mechanism normally classified as an elevator, equipped with a car that moves within a guide system installed at an angle of greater than seventy degrees (70 degrees) from the horizontal, serving two (2) or more landings, for the purpose of transporting materials which are manually or automatically loaded or unloaded.

(13) "Modernization" means the replacing or upgrading of any major operating component(s) of a conveyance.

(14) "Moving walks" means a type of passenger-carrying device on which passengers stand or walk and in which the passenger-carrying surface remains parallel to its direction of motion and is uninterrupted.

(15) "Owner" includes the designated agent or representative of the owner.

(16) "Platform lift" means a hoisting and lowering mechanism that moves within a guide system and serves two (2) or more landings, and may include vertical or inclined platform lifts used by persons who are mobility impaired.

(17) "Private residence" means a separate dwelling or a separate apartment in a multiple dwelling occupied only by the members of a single family unit.

(18) "Qualified elevator inspector" or "QEI" means a person who is currently certified by the National Association of Elevator Safety Authorities International (NAESA International) accredited certifying organization as meeting the requirements of the NAESA International QEI-1 standard, and who is employed by or under contract to the division of building safety.

(19) "Repair" means the process of rehabilitation, upgrading or replacement of parts that are basically the same as the originals for the purpose of ensuring performance in accordance with the applicable code requirements.

(20) "Replacement" means the substitution of a device or component in its entirety with a new unit that is basically the same as the original for the purpose of ensuring performance in accordance with the applicable code requirements.

#### **§ 39-8604. Enforcement**

The administrator shall enforce the provisions of this chapter. Local governments shall not adopt codes or institute enforcement programs with regard to conveyances.

**§ 39-8605. Administrator's rulemaking authority**

The administrator may adopt rules and codes governing the operation, installation, alteration, maintenance, inspection and repair of conveyances and shall adopt minimum standards governing existing installations. The administrator may adopt such rules and fees as are reasonably necessary to establish and administer the provisions of this chapter.

**§ 39-8606. Scope -- Exemptions**

The provisions of this chapter shall apply to all conveyances within the state of Idaho except the following:

- (1) Conveyances located in private residences;
- (2) Conveyances in federally-owned facilities;
- (3) Conveyances permanently removed from service or made effectively inoperative; and
- (4) Conveyances erected temporarily for use only during construction work that are of such a design that they must be operated by a workman stationed at the hoisting machine.

**§ 39-8607. Inspections**

On and after July 1, 2004, all installations and periodic inspections required by this chapter shall be performed by a QEI as defined in this chapter.

**§ 39-8608. Installation permits required -- Application -- Posting -- Exceptions -- Other licenses, permits and inspections**

(1) On and after July 1, 2004, it shall be unlawful for any person to do, or cause or permit to be done, whether acting as principal, agent or employee, any installation or major alteration of any conveyance in the state of Idaho without first procuring an installation permit from the division of building safety authorizing the work to be done.

(2) The owner of a conveyance shall submit an application for the permit in a form that the division may prescribe. A copy of the plans or specifications for the installation, erection, major alteration, or relocation shall be attached to the permit application.

(3) The permit issued by the division shall be kept posted conspicuously at the site of installation.

(4) No installation permit is required for repairs and replacement normally necessary for maintenance and made with parts of equivalent materials, strength and design, or for installations and major alterations that have been commenced prior to July 1, 2004, or for new installations let for bid prior to November 1, 2002.

(5) The installation permit and inspections required in this chapter are not exclusive. Installations and major alterations of conveyances as herein defined may be subject to licensing, permitting and inspection requirements set forth in other provisions of law.

**§ 39-8609. Responsibility for operation and maintenance of equipment and for periodic tests**

(1) The person installing or altering a conveyance is responsible for its operation and maintenance until the division has issued an operating certificate for the conveyance. The owner is responsible for all tests of a new, relocated or altered conveyance until the division has issued an operating permit for the conveyance.

(2) The owner shall be responsible for the safe operation and proper maintenance of the conveyance after the division has issued the operating certificate and also during the period of effectiveness of any temporary operating permit. The owner shall be responsible for assuring that all required periodic tests are performed by a QEI as defined in this chapter.

**§ 39-8610. Temporary certificate to operate**

A temporary certificate to operate may be issued by the administrator and shall be effective for not more than sixty (60) days. No temporary certificate shall be issued when life-safety nonconformances are present. Before the expiration of sixty (60) days, the conveyance shall be reinspected and a permanent certificate to operate shall be issued or the conveyance shall be put out of service.

**§ 39-8611. Certificate to operate**

(1) Inspection and certificate. No conveyance shall be placed into operation until an inspection has been performed and a certificate to operate has been issued by the division.

(2) Inspection prior to issuance. A certificate to operate may be issued only if, after a thorough inspection, the QEI finds that the conveyance meets the required safety standards. If the conveyance is found to be unsafe, the division shall prohibit the use of the conveyance until it is made safe. Conveyances shall comply with the codes set forth in *section 39-8614, Idaho Code*.

(3) Term of certificate. A certificate to operate shall be in effect for five (5) years, provided that the conveyance continues to meet the requirements of the appropriate codes as evidenced by annual inspections

(4) Revocation of certificate. The certificate to operate shall remain the property of the state of Idaho and may be revoked at any time if the conveyance fails to meet the requirements of the appropriate codes or if the annual certification fee is not paid.

**§ 39-8612. Operation without certificate may be enjoined**

Whenever any conveyance is being operated without a certificate required by this chapter, the administrator may apply to the district court of the county in which the conveyance is located for a temporary restraining order or a temporary or permanent injunction restraining the operation of the conveyance until the division issues a certificate to operate. Notwithstanding any other provision of law, the division shall not be required to post a bond.

**§ 39-8613. Order to discontinue operation -- Notice -- Conditions -- Contents of order -- Rescission of order -- Violation -- Penalty -- Random inspections**

(1) The administrator may order the owner or person operating a conveyance to discontinue the operation of a conveyance, and may place a notice that states that the conveyance shall not be operated, in a conspicuous place in the conveyance if the conveyance:

(a) Has not been constructed, installed, maintained or repaired in accordance with the requirements of this chapter; or

(b) Has otherwise become unsafe.

(2) The administrator's order is effective immediately and shall not be stayed by a request for an administrative hearing.

(3) The administrator shall prescribe a form for the order to discontinue operation. The order shall specify why the conveyance violates this chapter or is otherwise unsafe.

(4) The administrator shall rescind the order to discontinue operation if the conveyance is fixed or modified to bring it into compliance with this chapter.

(5) An owner or a person that knowingly operates or allows the operation of a conveyance in contravention of an order to discontinue operation, or that removes a notice not to operate, is:

- (a) Guilty of a misdemeanor; and
- (b) Subject to a civil penalty.

(6) The division may conduct random on-site inspections and tests on existing installations and may witness periodic inspections and testing in order to ensure satisfactory performance.

(7) Administrative hearings of appeals from orders issued by the administrator shall be governed by the provisions of the Idaho administrative procedure act, chapter 67, title 52 [chapter 52, title 67], Idaho Code.

#### **§ 39-8614. Adoption of codes**

(1) The following codes, including those updates, addenda and amendments thereto hereafter adopted by the division as set forth in the duly promulgated administrative rules, are hereby adopted for all conveyances subject to this chapter as may be applicable below:

- (a) ANSI/ASME, Safety Code for Elevators and Escalators.
- (b) ANSI/ASME, Guide for Inspection of Elevators, Escalators, and Moving Walks.
- (c) ANSI/ASME, Safety Code for Existing Elevators and Escalators.
- (d) ANSI/ASME, Guide for Emergency Personnel.
- (e) ANSI/ASME, Standards for Elevator and Escalator Electrical Equipment.
- (f) ANSI/ASME, Safety Requirements for Personnel Hoists and Employee Elevators for Construction and Demolition of Operations.
- (g) ICC/ANSI, American National Standard, Accessible and Usable Buildings and Facilities.
- (h) ANSI/ASME, Safety Standards for Platform Lifts and Stairway Chairlifts.
- (i) ASME, Standards for the Qualification of Elevator Inspectors.

(2) Conveyances placed into operation after July 1, 2004, shall comply with those codes in effect on the date the division received the application for the permit or certificate for the conveyance.

(3) Conveyances placed into operation prior to July 1, 2004, shall be required to comply only with the Safety Code for Existing Elevators and Escalators.

#### **§ 39-8615. Inspections and tests**

Conveyances shall have an inspection performed in accordance with ANSI/ASME standards set forth in *section 39-8614, Idaho Code*. The following types of inspections are required:

(1) Acceptance. The initial inspection and tests of new or altered equipment by a QEI to check for compliance with the applicable code requirements.

(2) Periodic. Periodic inspection and tests plus additional detailed examination and operation of equipment at specified intervals performed by a QEI to check for compliance with the applicable code requirements. Periodic inspections are required at least every five (5) years.

(3) Routine. Annual examinations performed in compliance with applicable codes to verify compliance with requirements.

### **§ 39-8616. Fees**

The division shall have authority to charge certain fees in accordance with the fee schedule established by the division, which schedule shall not exceed the amounts set forth as follows and which amounts may be reduced by the division as set forth in duly promulgated administrative rules:

(1) Installation, alteration, modernization or relocation fee schedule. Fees include one (1) plan review and certificate to operate, and two (2) acceptance inspections (each inspection thereafter will incur a reinspection fee):

(a) Certification fee:

(i) Traction and roped hydraulic elevator..... \$ 1,500

(ii) Moving walk/escalator..... \$ 1,500

(iii) Hydraulic elevator..... \$ 1,000

(iv) Platform lift/material lift/dumbwaiter..... \$ 750

(b) Reinspection fee:

(i) Traction and roped hydraulic elevator..... \$ 500

(ii) Moving walk/escalator..... \$ 500

(iii) Hydraulic elevator..... \$ 500

(iv) Platform lift/material lift/dumbwaiter..... \$ 250

(2) Annual certificate to operate fee schedule. Fees include annual certificate to operate and periodic inspection (every five (5) years), and one (1) reinspection as may be necessary (each inspection thereafter will incur a reinspection fee):

(a) Certification fee:

(i) Traction and roped hydraulic elevator..... \$ 225

(ii) Moving walk/escalator..... \$ 225

(iii) Hydraulic elevator..... \$ 125

(iv) Platform lift/material lift/dumbwaiter..... \$ 100

(b) Reinspection fee:

(i) Traction and roped hydraulic elevator..... \$ 225

(ii) Moving walk/escalator..... \$ 225

(iii) Hydraulic elevator..... \$ 125

(iv) Platform lift/material lift/dumbwaiter..... \$ 100

(3) Temporary certificate to operate fee schedule (same as annual) and one (1) reinspection fee as may be necessary (each inspection thereafter will incur a reinspection fee):

(a) Temporary certification fee:

(i) Traction and roped hydraulic elevator..... \$ 225

(ii) Moving walk/escalator..... \$ 225

(iii) Hydraulic elevator..... \$ 125

(iv) Platform lift/material lift/dumbwaiter..... \$ 100

(b) Reinspection fee:

(i) Traction and roped hydraulic elevator..... \$ 225

(ii) Moving walk/escalator..... \$ 225

(iii) Hydraulic elevator..... \$ 125

(iv) Platform lift/material lift/dumbwaiter..... \$ 100

(4) Application for initial certification (nonrefundable):  
All conveyances..... \$ 50

**§ 39-8617. Annual renewal**

Certificates to operate shall be renewed annually by making application to the division on such forms as the division may prescribe. Successful application shall require payment of the annual renewal fee and submission of a satisfactory routine inspection form, provided however, that on each five (5) year anniversary of issuance of the certificate, successful application shall require payment of the annual renewal fee and submission of a satisfactory periodic inspection form.

**§ 39-8618. Inspection reports and compliance agreements**

(1) Within fifteen (15) days of completion of the inspection, all inspection reports shall be filed with the division and a copy shall be sent to the owner for corrective actions as required.

(2) Within thirty (30) days of the delivery of an inspection report to the owner and the division, the owner and the division shall enter into a compliance agreement whereby the owner and the division shall agree upon a schedule for corrective actions identified in the inspection report. The division shall issue a temporary certificate to operate if the corrective actions are not related to life safety issues. The owner and the division shall thereafter act in good faith to comply with the provisions of the compliance agreement.

(3) Where there are practical difficulties involved in complying with this chapter or any provision of any applicable code, as part of a compliance agreement, the owner and the division may identify alternative means of compliance so long as such alternative means do not lessen health, fire and life safety requirements and are otherwise consistent with the intent and purpose of applicable codes.

(4) An owner's failure to complete the corrective actions set forth in the compliance agreement shall constitute grounds for the imposition of civil penalties and such further action as the division may deem appropriate if the owner:

(a) Fails to initiate corrective action; and

(b) Fails to provide evidence of compliance within thirty (30) days of the owner's receipt of written notice from the division of a failure to comply.

(5) An owner shall not be deemed to be in violation of this chapter:

(a) If the owner and the division are in the process of entering into a compliance agreement; or

(b) If the owner is undertaking corrective action as set forth in the compliance agreement; or

(c) If upon the expiration of thirty (30) days from receipt of written notice from the division specifying the particulars in which the owner has failed to perform its obligations under a compliance agreement, the owner fails, prior to expiration of said thirty (30) day period, to rectify the particulars specified in such notice; or

(d) If an owner's failure to perform under this chapter cannot be reasonably rectified within thirty (30) days from receipt of written notice from the division, but the owner, having received the notice, has commenced actions necessary to cure the failure and is diligently pursuing the cure of the failure.

#### **§ 39-8619. Violations -- Misdemeanors**

(1) Any person who willfully violates any provision of this chapter or the duly promulgated rules hereunder is guilty of a misdemeanor and, upon conviction, shall be punished by a fine of not more than three hundred dollars (\$ 300) or by imprisonment for not more than six (6) months or by both such fine and imprisonment.

(2) A separate violation is deemed to have occurred with respect to each conveyance not in compliance with this chapter. Each day such violation continues constitutes a separate offense.

#### **§ 39-8620. Civil penalty for violation of chapter -- Notice**



(1) The administrator may assess a penalty against a person violating a provision of this chapter. The penalty shall be not more than five hundred dollars (\$ 500) per violation. Each day that the violation continues is a separate violation and is subject to a separate penalty.

(2) The administrator shall notify the violator of his action and the reasons for his action in writing. The administrator shall send the notice by certified mail to the violator's last known address. The notice shall inform the violator that a hearing may be requested under the provisions of the Idaho administrative procedure act, chapter 52, title 67, Idaho Code. A request for a hearing shall not stay the effect of the penalty.

#### **§ 39-8621. No limitation or assumption of liability**

This chapter shall not be construed to relieve or lessen the responsibility of any person, firm or corporation owning, operating, controlling, maintaining, erecting, constructing, installing, altering, inspecting, testing or repairing any conveyance covered by this chapter for damages to any person or property caused by any defect therein, nor does the state assume any such liability or responsibility for any liability to any person for whatever reason whatsoever by the adoption of this chapter or any acts or omissions arising hereunder.

#### **§ 39-8622. Accidents -- Report and investigation -- Cessation of use -- Removal of damaged parts**

The owner shall promptly notify the division of each accident to a person requiring the service of a physician or resulting in a disability exceeding one (1) day and shall afford the division every facility for investigating and inspecting the accident. After being so notified, the division shall without delay make an inspection and shall place on file a full and complete report of the accident. The report shall detail all material facts and information gathered as a part of the investigation and shall include the potential cause or causes of the accident, as may be ascertained by the division. The report shall be open to public inspection at all reasonable hours. When an accident involves the failure or destruction of any part of the construction or the operating mechanism of a conveyance, the use of the conveyance is forbidden until it has been made safe, it has been reinspected, any repairs, changes or alterations have been approved by the division, and a permit has been issued by the division. The removal of any part of the damaged construction or operating mechanism from the premises is forbidden until the division grants permission to do so.

#### **§ 39-8623. Idaho elevator safety fund established**

All moneys received by the administrator under the provisions of this chapter shall be paid into the state treasury as directed by *section 59-1014, Idaho Code*, and shall be placed by the state treasurer to the credit of a dedicated fund to be known as the "Idaho Elevator Safety Fund" which is hereby established. All such moneys hereafter placed in the fund are hereby set aside and appropriated to the division of building safety to carry into effect the provisions of this chapter.